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Attorney for Plaintiff Carolyn Wesley

E-filing

UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

CAROLYN WESLEY,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA,

Defendants.

Case No:

PLAINTIFF'S MOTION FOR
ADMINISTRATIVE RELIEF
Civil L.R. 3-3, 3-12

JCS

COMES NOW Plaintiff, Carolyn Wesley, by and through her attorneys, and prays for administrative relief (Civil L.R. 3-3 and 3-12) – NOTICE OF REFILED / RELATED ACTION:

1. On January 4, 2007, plaintiff filed her complaint Carolyn Wesley vs. Dick, Morganti, Nibbi, JV, The United States Of America, and Does 1 To 100, Case No. C- 07-0006 JCS. This is an action for personal injuries arising out of a trip and fall on January 5, 2005, on the sidewalk adjacent to the Ninth Circuit Court of Appeals building located at 7th and Mission Streets, San Francisco, California.

2. Plaintiff voluntarily dismissed, without prejudice, the United States on March 20, 2007. Title 28 U.S.C. § 2675 allows for the exhaustion of administrative review and remedies by the appropriate Federal Agency before filing suit. Administrative review and remedies of the claim presented by plaintiff to the Government Services Agency have not been exhausted.

3. On July 5, 2007 pursuant to an agreement between the parties that Dick, Morganti, Nibbi, Joint Venture, waives costs, expenses, including attorney's fees; Pursuant to F.R.C.P. 41(a)(1), Plaintiff voluntarily dismissed, without prejudice, Defendant Dick, Morganti, Nibbi, Joint Venture.

4. On July 31, 2007, the United States sent notice that it had rejected plaintiff's claim, thereby satisfying the exhaustion of administrative review and remedies.

5. Plaintiff is refiling her complaint against the United States of America.

6. This is the identical fact situation and the same parties, without Dick, Morganti, Nibbi, JV, as alleged in C 07 00006 JCS.

7. Plaintiff has prepared and will file promptly her Motion for Administrative Relief Civil L.R.7-11 in Case No C 07 00006 JCS.

8. No substantive proceedings or discovery transpired in Case No. C 07 00006 JCS.

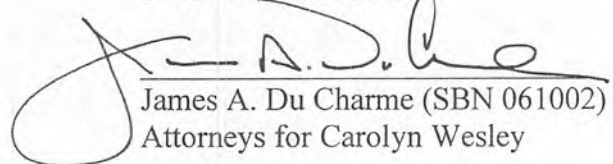
9. Plaintiff and defendant Dick, Morganti, Nibbi, JV had filed their Stipulations to Proceed Before the Magistrate in Case No. C 07 00006. Defendant United States of America was dismissed and had not filed a Stipulation.

10. The US Attorney's Office will be served with this Motion, as well as the Motion for Administrative Relief Civil L.R. 7-11 filed in Case No. C 07 00006.

11. Plaintiff is not forum shopping and has no objection to the new case being assigned to Judge Spero.

Dated: September 10, 2007

Du Charme & Cohen



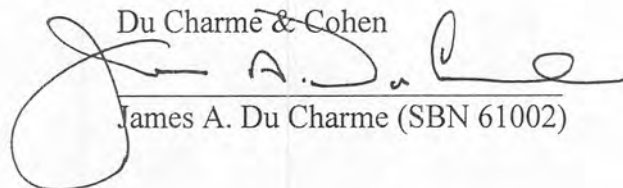
James A. Du Charme (SBN 061002)
Attorneys for Carolyn Wesley

CERTIFICATE OF COUNSEL

The undersigned certifies to the best of his knowledge, information and belief, that good cause exists for the filing of this Motion.

Dated: September 10, 2007

Du Charme & Cohen



James A. Du Charme (SBN 61002)